IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.9.2007

CORAM:

THE HONOURABLE MR.JUSTICE P.D.DINAKARAN
AND
THE HONOURABLE MR.JUSTICE R.REGUPATHI

H.C.P.No.816 of 2007

Govindammal .. Petitioner

Vs

1. State of Tamil Nadu, rep by its
   Secretary to Government,
   Prohibition and Excise Department,
   Fort St. George, Chennai-9.

2. The District Collector and
   District Magistrate,
   Thiruvannamalai District. .. Respondents

Petition filed under Article 226 of the Constitution of India for issue of Writ of Habeas Corpus as stated therein.

For Petitioner : Mr.C.C.Chellppan
For Respondents: Mr.N.R.Elango
Additional Public Prosecutor

O R D E R

(Order of the Court was made by P.D.DINAKARAN,J.)

The petitioner, who is the wife of the detenu, Annadurai, who was incarcerated by order dated 28.4.2007 of the second respondent under Section 3(1) of the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Sand Offenders, Slum Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14 of 1982) branding him as a Bootlegger, has preferred this petition for issue of a Writ

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/

of Habeas Corpus to call for the records in connection with the order of detention passed by the second respondent dated 28.4.2007 in Proceedings D.O.No.25/2007 against the petitioner's husband, Annadurai, son of Pichaikaran, now confined at Central Prison, Vellore, to set aside the same and to direct the respondents to produce the above said detenu before this Court and set him at liberty.

2. According to the respondents, the detenu was found selling illicit arrack to some persons at burial ground on the eastern side of Vettavalam Colony. The Inspector of Police, Vettavalam Police Station, apprehended the detenu and seized the illicit arrack found therein. The samples were sent for chemical analysis and it was found that the arrack contained 6.7% mg atropine per 100 ml. A case was registered in Crime No.82/2007 under Section 4(1)(i) read with 4(1-A)(ii) of the Tamil Nadu Prohibition Act.

3. Taking note of the above case as ground case and seven adverse cases of alike nature, the second respondent, satisfying that there is a compelling necessity to detain the detenu in order to prevent him from indulging in the activities which are prejudicial to the maintenance of public order and public health, ordered his detention dubbing him as a bootlegger.

4. The learned counsel for the petitioner submits that the requisition made by the Sponsoring Authority for sending the samples for chemical analysis shows the date of chemical analysis report as 28.03.2007 at 11.30 a.m.(page 20 of the booklet), whereas the properties were sent to the Court for sending the same for chemical analysis only on 29.3.2007, as evident from Form 95 filed by the Sponsoring Authority before the Court (page 14 of the booklet), which would show that the detaining authority had not applied his mind while passing the order of detention and therefore, the same is vitiated.

5. We have perused the entire materials placed before us and we are satisfied that there is an error apparent on the face of the record, which would go to show that the detaining authority had not applied their mind before passing the order of detention.

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/

6. In view of the above, the impugned order of detention dated 28.4.2007 is set aside. The detenu is directed to be set at liberty forthwith unless his presence is required in connection with any other case.

Sd/
Asst. Registrar

/true copy/

Sub Asst.Registrar

ATR
To:

1. The Secretary to Government,
   State of Tamilnadu,
   Prohibition and Excise Department,
   Secretariat, Chennai-9.

2. The District Collector and
   District Magistrate,
   Thiruvannamalai District.

3. The Superintendent,
   Central Prison, Vellore.

4. The Public Prosecutor
   High Court, Madras.

5. The Joint Secretary to Govt,
   Public [Law & Order] Fort st George,
   Chennai-9

1cc to Mr.C.C. Chellappan, Advocate Sr.No 58401
Vrk[Co]
Gs 28/9

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/